

Mr. Prince.—I beg to second the amendment. From my long experience of over 24 years in the High Court, I know it has been invariably the custom not to sentence to death more than one person for the same offence. I think it is a most humane custom.

President.—The amendment in question simply supplies an omission which inadvertently occurred at the 3rd reading of the Bill, when the custom was specified. This amendment seeks to give full effect to the principle then affirmed, that the customary law regarding sentence of death should remain in force.

Carried.

Mr. Thanu Pillai.—With the permission of the President, I would propose a few more amendments which involve no principle, but are merely verbal.

In *section 68*, Illustration, 3rd line, substitute "act" for "fact."

Seconded by Mr. Prince.

Carried.

Section 182.—Omit the words "or both" at the end of para 1. These have really no place here because only one kind of punishment is provided.

Seconded by Mr. Prince.

Carried.

Sections 517 and 518. In the 3rd line of section 517 and 2nd line of section 518, substitute "sentence passed on such conviction" for "punishment imposed on the previous conviction." We have adopted a similar modification in section 64.

Seconded by Mr. Prince.

Carried.

Mr. Thanu Pillai.—Having already omitted one section (288) of the Bill we have to alter the numbering of all subsequent sections accordingly. I would, therefore, propose the following:— "Modify the numbers of all the sections from 289 to 520, beginning from 288 and ending with 519, altering the numbers in the body of the sections with reference to these modifications.

Seconded by Mr. Prince.

Carried.

Mr. Thanu Pillai.—I beg to move that the Bill as amended be passed and that it come into force on the first day of Makarom 1074.

Seconded by Mr. Rajaram Rao.

The motion was put and agreed to.

DEPARTMENTAL ENQUIRIES BILL.

Mr. Thanu Pillai.—The amendments I propose do not require much explanation.

Section 2. Omit "the" before "Heads of Departments," and insert the words "drawing a salary not less than Rs. 300" between "Departments" and "Dewan Peishcars."

The object of this amendment is, I believe, plain. The power conferred by this section, though doubtless very necessary for the discovery of truth in departmental enquiries, is one which, if not carefully and properly exercised, is likely to prove detrimental to the interests of public servants, and also prove a source of inconvenience and even oppression to the general public. It is possible for a public servant if so minded, to harass any person, man or woman, under the guise of departmental enquiry, and there must be some safeguard against all possible abuse of this power. The Bill itself affords a safeguard in the provision that only officers of position can exercise this power. But in the absence of a definition of the expression "Heads of Departments," this safeguard is not complete. There is no clear definition anywhere except that contained in the Leave Rules where, I believe,

the expression is defined as applying to any person who is in independent charge of an office and holds direct correspondence with Government. The Council is doubtless aware that there are officers on Rs. 50 and less, who are in independent charge of offices or institutions and hold direct correspondence with Government. I believe it is not the intention of the Council to empower such officers to proceed under the Regulation. The amendment introduces a wholesome limitation.

Seconded by Mr. Nagam Aiya.

Carried.

Mr. Thanu Pillai.—*Section 3.* Add the following as para 2:—

“No statement taken from the person so summoned in the absence of a public servant whose conduct is under enquiry shall be used as evidence against such public servant in any subsequent proceeding.”

You will see from section 2 that the officers therein referred to are empowered to summon witnesses to attend not only before themselves but before any officer named in the summons, and under the 1st para of section 3, the persons so summoned are bound to speak the truth. The statements of such witnesses are taken without the guarantees which usually exist in similar cases—oath, publicity, cross-examination &c. It is just possible that the statement contemplated by section 3 is taken at midnight in a solitary place, where there are no human beings besides the questioner and the questioned. This may perhaps be considered an extreme case, but still it is a conceivable case. I feel that the proposed amendment itself does not sufficiently protect the accused. We all know how easy it is for a man of some local influence to procure witnesses. The deponent may bear no ill-will towards the accused and may possibly not know him. He merely repeats what has been put into his mouth by the accused's enemy either for a material consideration or, it may be, for merely obliging a friend. At a later stage when he may know what the consequences of his statements will be, he may be perfectly willing to speak the truth, but the word ‘truly’ in section 3 renders it impossible for him to retract his former statement. The accused person in this case has the protection afforded by cross-examination. This protection which, in view of the learned counsel which the country now possesses is no small matter, will be practically denied to the accused if the statements originally recorded are admissible as evidence.

Seconded by Mr. Kuruvila.

President.—The retention of the word ‘truly’ in the section is necessary, to prevent malicious and false accusations being recklessly made against public servants, by placing the accuser and his witnesses under a legal obligation to speak the truth. But the protection afforded to public servants by the imposition of the obligation to speak the truth on the accuser and his supporters, will not be complete without the amendment now proposed; for there are persons who, in spite of heavy penalties, would make false statements.

Carried.

Mr. Kuruvila.—With the permission of the President I would like to propose an amendment which is more in the interests of the public than of the accused public servant. I refer to the distance of 100 miles mentioned in sections 2 and 4. I do not know if there is any special intention in fixing the distance at 100 miles. Considering the utmost length and breadth of Travancore, I am afraid that, by a process of legerdemain, the whole area of the State can be traversed by the provision. I beg, therefore, to propose that in sections 2 and 4, where the distance is mentioned, the number “50” be substituted for “100.”

Seconded by Mr. Kochookrishna Marar.

Carried.

Mr. Thanu Pillai.—I propose that the Bill as amended be passed and that it come into force on the first day of Chingom 1074.

Seconded by Mr. Prince.

The motion was put and agreed to.